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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91205542
Party	Plaintiff Halliburton Energy Services, Inc.
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Attachments	Halliburton Answer to Second Amended Petition for Cancellation (7-10-13).pdf(100702 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

HALLIBURTON ENERGY SERVICES, INC.,

Opposer/Respondent,

v.

BAKER HUGHES INCORPORATED,

Applicant/Petitioner.

Opposition No.: 91205542

Application Ser. No. 85/402,715

Mark: VACS

**ANSWER TO SECOND AMENDED PETITION FOR CANCELLATION**

Through the undersigned counsel, Opposer/Respondent Halliburton Energy Services, Inc. (“Halliburton”) answers the Second Amended Petition for Cancellation filed against Registration No. 3,738,313 by Applicant/Petitioner Baker Hughes Incorporated (“Petitioner”), as set forth below. The Answer paragraphs are numbered to correspond to the numbered paragraphs of the Second Amended Petition for Cancellation.

1. Halliburton admits the allegations contained in paragraph 1 of the Second Amended Petition for Cancellation.

2. Halliburton admits the allegations contained in paragraph 2 of the Second Amended Petition for Cancellation.

3. Halliburton admits that Petitioner has petitioned to cancel Registration No. 3,738,313. Halliburton is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 3 of the Second Amended Petition for Cancellation and, therefore, denies the same and further denies that Petitioner is or

will be damaged by Registration No. 3,738,313, which has existed on the Supplemental Register since January 12, 2010.

4. Halliburton admits the allegations contained in paragraph 4 of the Second Amended Petition for Cancellation pertaining to Application Serial No. 77/069,596, but denies any allegations pertaining to a so-called '595 Application.

5. Halliburton admits the allegations contained in paragraph 5 of the Second Amended Petition for Cancellation.

6. Halliburton denies the allegations contained in paragraph 6 of the Second Amended Petition for Cancellation because an Office Action was not mailed on March 13, 2007, but admits that an Office Action was mailed on March 14, 2007, and states that the file history speaks for itself.

7. Halliburton denies the allegations contained in paragraph 7 of the Second Amended Petition for Cancellation because an Office Action was not mailed on March 13, 2007, but admits that an Office Action was mailed on March 14, 2007, and states that the file history speaks for itself.

8. Halliburton admits the allegations contained in paragraph 8 of the Second Amended Petition for Cancellation.

9. Halliburton admits the allegations contained in paragraph 9 of the Second Amended Petition for Cancellation.

10. Halliburton admits the allegations contained in paragraph 10 of the Second Amended Petition for Cancellation.

11. Halliburton admits the allegations contained in paragraph 11 of the Second Amended Petition for Cancellation.

12. Halliburton admits the allegations contained in paragraph 12 of the Second Amended Petition for Cancellation.

13. Halliburton admits the allegations contained in paragraph 13 of the Second Amended Petition for Cancellation.

14. Halliburton admits the allegations contained in paragraph 14 of the Second Amended Petition for Cancellation.

15. Halliburton admits the allegations contained in paragraph 15 of the Second Amended Petition for Cancellation, but points out that the reference to “Respondent” in the quotation contained in the last sentence of paragraph 15 should read “Applicant.”

16. Halliburton admits the allegations contained in paragraph 16 of the Second Amended Petition for Cancellation.

17. Halliburton admits that the Trademark Examining Attorney accepted the specimen of use filed in connection with Application Serial No. 77/069,596, but is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 17 of the Second Amended Petition for Cancellation and, therefore, denies the same.

18. Halliburton realleges its responses to paragraphs 1 through 17 of the Second Amended Petition for Cancellation.

19. Halliburton admits that the goods listed in the Registration 3,738,313 are “drilling machines; drilling machines and parts therefor,” but denies the remaining allegations contained in paragraph 19 of the Second Amended Petition for Cancellation.

20. Halliburton admits that the specimen filed on April 1, 2009 shows use of the mark

VAC TECH on or in connection with mechanical downhole equipment for use in oil and gas wells, but denies the remaining allegations contained in paragraph 20 of the Second Amended Petition for Cancellation.

21. Halliburton denies the allegations contained in paragraph 21 of the Second Amended Petition for Cancellation.

22. Halliburton denies the allegations contained in paragraph 22 of the Second Amended Petition for Cancellation.

23. Halliburton denies the allegations contained in paragraph 23 of the Second Amended Petition for Cancellation.

24. Halliburton realleges its responses to paragraphs 1 through 23 of the Second Amended Petition for Cancellation.

25. Halliburton admits that Baker Hughes and Halliburton are competitors in the field of downhole tools and is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 25 of the Second Amended Petition for Cancellation and, therefore, denies the same.

26. Halliburton denies the allegations contained in paragraph 26 of the Second Amended Petition for Cancellation.

27. Halliburton admits that its VAC TECH products are downhole tools and is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 27 of the Second Amended Petition for Cancellation and, therefore, denies the same.

28. Halliburton is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 28 of the Second Amended Petition for Cancellation and, therefore, denies the same.

29. Halliburton is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the first sentence of paragraph 29 of the Second Amended Petition for Cancellation and, therefore, denies the same. Halliburton denies the remaining allegations contained in paragraph 29 of the Second Amended Petition for Cancellation.

30. Halliburton denies the allegations contained in paragraph 30 of the Second Amended Petition for Cancellation

31. Halliburton denies the allegations contained in paragraph 31 of the Second Amended Petition for Cancellation

32. Halliburton denies the allegations contained in paragraph 32 of the Second Amended Petition for Cancellation. In addition, concurrently herewith, Halliburton moves to strike the following sentence from paragraph 32 of the Second Amended Petition for Cancellation because Petitioner's claim for fraud has been dismissed with prejudice: "Further, Respondent fraudulently obtained the '313 Registration in violation of federal law."

33. No response is necessary to paragraph 33 of the Second Amended Petition for Cancellation.

### **AFFIRMATIVE DEFENSES**

1. The Second Amended Petition for Cancellation is barred by the doctrines of laches and estoppel. Halliburton, including through its predecessor in interest, has used VAC TECH for over five years, and Registration No. 3,738,313 issued on the Supplemental Register more than three years ago. Petitioner has delayed in asserting its purported rights and Halliburton has detrimentally relied on such undue delay.

### **RESPONSE TO PRAYER**

Halliburton respectfully requests that the Trademark Trial and Appeal Board dismiss Petitioner's Second Amended Petition for Cancellation with prejudice.

Respectfully Submitted,

Date: July 10, 2013

/s/ Joel D. Leviton  
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ATTORNEYS FOR HALLIBURTON  
ENERGY SERVICES, INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the following document:

**ANSWER TO SECOND AMENDED PETITION FOR CANCELLATION**

has been served this 10th day of July, 2013 by U.S. mail, postage prepaid, upon counsel for the Applicant:

ANTHONY F MATHENY  
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/s/ Joel D. Leviton  
Joel D. Leviton